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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,650	07/23/2003	Robert R. Ricci	FS-00747	6898

7055 7590 06/16/2005

GREENBLUM & BERNSTEIN, P.L.C.  
1950 ROLAND CLARKE PLACE  
RESTON, VA 20191

EXAMINER

LOPEZ, MICHELLE

ART UNIT PAPER NUMBER

3721

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/624,650

Applicant(s)

RICCI ET AL.

Examiner

Michelle Lopez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/23/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/11/05</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to the amendment filed on April 11, 2005.

#### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "110" has been used to designate "a clamping, cutting, and serrate mechanism". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 16-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 16, it is not clear if a single product is being wrapped or adjacent packaged sequenced products.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golicz et al. (4,617,784) in view of Odenthal (5,588,285).

Golicz et al. discloses a packaging device having an output end, the packaging device is adapted to package sequenced products; a clamping device 30,34 adjacent to the output end of the packaging device; a conveying system via 32 downstream from the clamping device, wherein the clamping device holds one of a plurality of packaged sequenced products.

With regards to claims 1, Golicz et al. does not disclose that the conveying system moves a drop off tray incrementally, such that the drop off tray is in position to stack a multiple packaged sequenced products of the plurality of packaged sequenced products as the drop off tray is moved.

However, Odenthal teaches a packaging device having a conveying system moving a drop off tray incrementally, such that the drop off tray is in position to stack a multiple packaged sequenced products of the plurality of packaged sequenced products as the drop off tray is moved for the purpose of automatically stacking a plurality of packaged sequenced products into a tray at a desired constant speed. In view of Odenthal, it would have been obvious to one having ordinary skill in the art to have provided Golicz's invention with a conveying system moving a drop off tray incrementally in order to automatically stack a multiple packaged sequenced

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products of the plurality of packaged sequenced products as the drop off tray is incrementally moved.

With respect to claim 2, Golicz discloses the claimed invention except for that the sequenced products are mail pieces.

However, since Golicz teaches a system for packaging flat products, it would have been an obvious matter of design choice to have provide mail pieces, since applicant has not disclosed that providing products as mail pieces solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with Golicz packaging system for the purpose of packaging mail pieces into a container with a vertical stack configuration.

With respect to claim 3, Golicz does not discloses that the clamping device holds each of the plurality of packaged sequenced products until the conveying system conveys the drop off tray to a predetermined area.

However, Odenthal shows that each of the plurality of packaged sequenced products are hold until the conveying system conveys a drop off tray to a predetermined area for the purpose of automatically stacking the packaged sequenced products at a desired speed into the tray. In view of Odenthal, it would have been obvious to one having ordinary skill in the art to have provided Golicz's invention wherein the clamping device holds each of the plurality of packaged sequenced products until the conveying system conveys the drop off tray to a predetermined area in order to automatically stacking the packaged sequenced products at a desired speed into the tray.

With respect to claim 4, Golicz discloses a serrating device which serrates wrap attached between adjacent packaged sequenced products.

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With respect to claims 5 and 9, Golicz discloses a serrating device which serrates wrap between adjacent packaged sequenced product as shown in Fig. 3, such that each of the adjacent packaged sequenced products remain connected to one another.

With respect to claims 6 and 9, Golicz discloses a cutting device for cutting the wrap downstream of a last package of the sequenced products of the plurality of packaged sequenced products.

With respect to claims 4,5,6, and 9, even when Golicz does not disclose that the wrapped packaged sequenced products are drop in a drop off tray to be stacked therein, in view of Odenthal, it would have been obvious to one having ordinary skill in the art to have dropped Golicz wrapped packaged sequenced products into a drop off tray for the purpose of stacking and packaging the packaged sequenced products in such a way that the wrapped packaged sequenced products remain connected to one another in a container.

With respect to claims 7 and 10, Golicz does not disclose a controller controlling the incremental movement of the conveying system based on a parameter of the packaged sequenced products.

However, Odenthal teaches a controller 15 controlling the incremental movement of a conveying system based on a parameter of the packaged sequenced products for the purpose of synchronizing the stacking of the packaged sequenced products into a container. In view of Odenthal, it would have been obvious to one having ordinary skill in the art to have provided Golicz's invention with a controller controlling the incremental movement of a conveying system based on a parameter of the packaged sequenced products in order to synchronize the stacking of the packaged sequenced products into a container.

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With regards to claim 8, Golicz does not disclose that the packaged sequenced products are vertically stacked into a tray.

However, Odenthal shows that the packaged sequenced products are vertically stacked.

With regards to claim 9, Golicz discloses wherein the clamping device holds each of the plurality of packaged products at a predetermined height.

With respect to claim 10, Golicz discloses a controller as a regulating mechanism via a solenoid assembly as shown in Fig. 9 and col. 5; 16-30, controlling the clamping device, the serrating device, and the cutting device.

With respect to claim 11, Golicz discloses means for sequencing product into a delivery point sequence, means for packaging individual packages of the product for each delivery point sequence, and a dropping means via a clamping device.

However, Golicz does not disclose means for dropping the individual packages into a vertical stacked position in a takeaway container and means for incrementally moving the takeaway container a predetermined distance such that the individual packages can fill the takeaway container prior to a new takeaway container being positioned for filling.

However, Odenthal teaches means for dropping the individual packages into a vertical stacked position in a takeaway container and means for incrementally moving the takeaway container a predetermined distance such that the individual packages can fill the takeaway container prior to a new takeaway container being positioned for filling for the purpose of automatically packaging a plurality of packages into a container at a desired constant input speed. In view of Odenthal, it would have been obvious to one having ordinary skill in the art to have provided Golicz's invention with means for dropping the individual packages into a vertical

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stacked position in a takeaway container and means for incrementally moving the takeaway container a predetermined distance such that the individual packages can fill the takeaway container prior to a new takeaway container being positioned for filling in order to automatically packaging a plurality of packages into a container at a desired constant input speed.

With respect to claim 12, Golicz discloses the claimed invention except for that the sequenced products are mail pieces.

However, since Golicz teaches a system for packaging flat products, it would have been an obvious matter of design choice to have provide mail pieces, since applicant has not disclosed that providing products as mail pieces solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with Golicz packaging system for the purpose of packaging mail pieces into a container with a vertical stack configuration.

With respect to claim 13, Golicz discloses means for serrating wrap which wraps the product into individual packages, wherein the serrating means serrates the wrap at an interconnection between adjacent individual packages to ensure that the individual packages remain in a sequenced order as shown in Fig. 3.

With respect to claim 14, Golicz discloses a controlling means via solenoids and switch assembly as shown in Fig. 9, also see col. 5; 16-30, for controlling the serrating means.

With respect to claim 15, Golicz discloses wherein the dropping means is a clamping means.

However, Golicz does not specifically disclose that the clamping device holds the individual packages until a takeaway tray is properly aligned with a next of the individual packages.



However, Odenthal teaches wherein a conveyor assembly 6 which holds individual packages until a takeaway tray is properly aligned with a next of the individual packages for the purpose of automatically packaging a sequenced series of individual packages into a container at a desired constant speed.

With respect to claim 16, Golicz discloses means for cutting wrap which wraps individual packages, wherein the cutting means cuts the wrap after a last of the individual packages.

With respect to claim 17, Golicz discloses a controlling means for controlling the cutting means, as shown in Fig. 9, and col. 5; 16-30.

#### ***Response to Arguments***

5. Applicant's arguments have been fully considered but they are not deemed persuasive.

6. Applicant traversed the rejection of claim 16 under 35 U.S.C. 112, 2nd paragraph.

Applicant contends that the language of claim 16 is clear and definite, since claim 16 requires a cutting means to cut the wrap after a last of the individual packages to be stacked is placed in the takeaway tray, wherein this can either be the sequenced product or a single product, depending on the demand usage.

However, since claim 16 merely recites "cut the wrap after a last of the individual packages to be stacked into the takeaway tray", Examiner maintains that is not clear whether a single product is being wrapped or adjacent packaged sequenced products.

7. Applicant contends that Golicz extending fingers are not adjacent to the output end of the packaging device. Instead, fingers 34 are clearly at an input end of the packaging device.

However, Examiner contends that Golicz does show that extending fingers 34 are adjacent and not distant to the output end of the packaging device at the end of frame 12.

Applicant also contends that Golicz does not show a packaging device for sequencing product, wherein Golicz's tags are not sequentially ordered.

However, since claim 1 merely recites "a packaging device adapted to package sequenced products" and claim 11 merely recites "means for sequencing product into a delivery point sequence", Examiner maintains that Golicz does show a packaging device that arrays and conveys tags in a continuous series from a printer device to a packaging device output end at the end of frame 12, wherein the tags are conveyed one after another as shown in Golicz's col. 1; lines 23-27.

Also, nowhere in the claims is recited that the products are being sorted or ordered in any specific order.

Also, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.

Applicant also contends that Golicz does not show a conveying system downstream from the clamping device.

However, Examiner contends that Golicz's slide 32 is a conveying system, wherein frames 12,29 are downstream from the clamping device 34 as shown in Golicz' Figs. 4-5.

Applicant also contends that Odenthal device has one group size and no multiple group sizing, and thus would not be able to accommodate an odd number or different number of products, or products of different sizes.

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However, since those limitations are not disclosed in the application's claims, Examiner maintains that rejection is proper and that the claimed structural limitations are shown by the combination of references.

8. For the reasons above, the ground of rejection are deemed proper.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### *Conclusion*

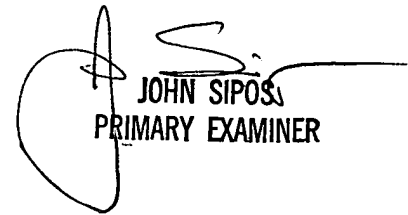
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JOHN SIPOS  
PRIMARY EXAMINER